



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

July 11, 2013

IN REPLY PLEASE
REFER TO FILE:

C-1

TO: Each Supervisor

FROM: Gail Farber 
Director of Public Works

SAN GABRIEL DAM PENSTOCK COATING AND VALVE REPAIR CONTRACTOR ABHE & SVOBODA, INC.

Public Works recently advertised a project to repair and rehabilitate the valves and penstocks at San Gabriel Dam. This project is essential to maintain the functionality of the facility. After bids were opened on July 2, 2013, Public Works received the attached protest letter dated July 3, 2013, from Painters and Allied Trades Compliance Administrative Trust (Trust) alleging that the apparent lowest responsible bidder, Abhe & Svoboda, Inc., was potentially a nonresponsible contractor. The protest states that Abhe & Svoboda, Inc., has violated State Labor Codes and received several safety violations.

We acknowledge that the contractor should have reported a labor compliance violation that occurred within the last three years in his/her bid documents. However, as noted in the contract solicitation documents, the County reserves the right to waive minor inconsistencies within the bid document. Abhe & Svoboda, Inc., agreed to a no-fault settlement in 2011 with the State of California Department of Industrial Relations, Division of Apprenticeship Standards, in the amount of \$3,500 for failure to employ apprentices and make training contributions as required. We are not aware of any other State of California violations. Based on this, we have made the determination that Abhe & Svoboda, Inc.'s, failure to disclose these violations does not warrant us finding them nonresponsible.

We reviewed the Occupational Health and Safety Act records that were submitted by the Trust and did not find them to be evidence of an adverse safety record.

The allegation made by the Trust regarding Abhe and Svoboda, Inc., being penalized \$1.3 million by the United States Department of Labor (DOL) was found to be a relatively minor matter. The incident occurred in the mid-1990's when the contractor was awarded three contracts in Connecticut to paint bridges and based on their own research paid what they thought were appropriate prevailing wages. Ultimately, the rates were challenged, and the DOL determined the contractor's workers, for certain

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classifications, were entitled to higher hourly rates. The \$1.3 million is the amount withheld by the DOL to make restitution to the affected workers and not a penalty as alleged in the Trust's letter.

We believe that Abhe & Svoboda, Inc., is a responsible contractor, and delaying the award of this project would not serve the public's interest. We intend to award this project to Abhe & Svoboda, Inc., using the authority delegated to the Chief Engineer of the Los Angeles County Flood Control District in our adopt, advertise, and award letter that was approved by the Board on May 21, 2013.

If you have any questions, please call me or your staff may contact Bill Winter, Deputy Director, at (626) 458-4018.

KA:sc

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Attach.

cc: Chief Executive Office
County Counsel
Executive Office

Painters and Allied Trades Compliance Administrative Trust
1155 Corporate Center Dr., 2nd Floor, Monterey Park, CA 91754
Phone: (626) 792-3019 • Fax: (626) 798-0528

July 3, 2013

Via Certified Mail # 7010 2780 0000 2231 6201
Via Fax: (626) 458-4194

Ms. Gail Farber
Director
County of Los Angeles
Department of Public Works
900 South Freemont Avenue
Alhambra, CA 91802

PROJECT: San Gabriel Dam Penstock Coating & Valve Repair
RE: Bidding Contractor- Abhe & Svoboda Inc

Dear: Ms. Farber:

Painters and Allied Trades Compliance is a joint labor-management committee that works diligently to insure fairness and compliance by all contractors in the bidding and performance of Public Works projects.

It is our understanding that Abhe & Svoboda ("the Contractor") is a bidder on the project listed above. It is our belief that the Contractor is a Non-Responsible bidder. Therefore, we respectfully suggest that no award should be made to the Contractor.

On July 9, 2009 the Division of Industrial Relations Division of Apprenticeship Standards found that the Contractor failed to comply with Labor Code §1777.5 and §1777.7. While no penalty was assessed, the Contractor was warned that "after receipt of this notice, any failure to comply with applicable apprenticeship regulations will be considered a knowing and possible intentional violation. See Exhibit 1. Despite this warning, subsequently, on October 28, 2011 the Contractor paid a \$3,500 fine to settle charges that it violated Labor Code §1777.5. See Exhibit 2.

In addition, since October 24, 2007, the Contractor has repeatedly violated the Occupational Health and Safety Act (OSHA) and regulations promulgated under that act. We have attached search results for your records from OSHA website. Please note that every year from 2008 – 2013, this company has continued to have these violations. See Exhibit 3.

These violations are in addition a reported federal court decision affirming a \$1.3 million penalty against the Contractor for failing to pay its painting employees the wages to which they were entitled under the Davis-Bacon Act. See Exhibit 4.

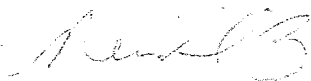
Of course, these are all labor law violations that the Contractor was required to report under the May 21, 2013 memorandum addressed to the Board of Supervisors, which states at page 3 that: "To ensure that the contract is awarded to a responsible contractor with a satisfactory history of performance, bidders are required to report violations of the False Claims Act, criminal convictions, civil litigation, defaulted contract with the County, complaints filed with the Contractor's State License Board, **labor law/payroll violations**, and debarment actions. As provided for in Board Policy No. 5. 140, the information reported by the contractor will be considered before making a recommendation to award." We do not know if the above violations were reported, but we respectfully urge the Board to double-check if they were. If not, that alone may be grounds to find the Contractor is not responsible.

For these reasons, the Contractor should be considered a Non-Responsible bidder.

Painters and Allied Trades Compliance Administrative Trust
1155 Corporate Center Dr., 2nd Floor, Monterey Park, CA 91754
Phone: (626) 792-3019 • Fax: (626) 798-0528

If you have any questions, please feel free to contact me.

Sincerely,



Nidia Henriquez
Case Investigator

Enc: Letters from Department of Industrial Relations, Division of Apprenticeship Standards, (Exhibit 1&2)
OSHA Records (Exhibit 3)
Federal Court Order (Exhibit 4)

cc: Board of Supervisors County of Los Angeles:

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